

CITY OF MUSKEGON

CITY COMMISSION MEETING

AUGUST 26, 2008

CITY COMMISSION CHAMBERS @ 5:30 P.M.

MINUTES

The Regular Commission Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, Michigan at 5:30 p.m., Tuesday, August 26, 2008.

Mayor Warmington opened the meeting with a prayer from George Monroe from the Evanston Avenue Baptist Church after which the Commission and public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

Present: Mayor Stephen Warmington, Vice Mayor Stephen Gawron, Commissioners Clara Shepherd, Lawrence Spataro, Sue Wierengo, Steve Wisneski, and Chris Carter, City Manager Bryon Mazade, City Attorney John Schrier, and City Clerk Ann Marie Becker.

2008-74 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve minutes for the August 11th Commission Worksession, and the August 12th Regular Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

B. Geographic Information Systems Basic Level of Service Inter-Governmental Agreement between the City of Muskegon and County of Muskegon. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To approve the Geographic Information Systems (GIS) Basic Level of Service Inter-Governmental Agreement between the City of Muskegon and County of Muskegon and authorize the first installment payment to be paid January 2009 (due to the fact the City's and County's budget years are different). The contract is a five-year contract with the first year's payment to be paid in the amount of \$11,572.56. By entering into this agreement, it will provide the City with daily updated parcel and ownership information. It will

also save the City money due to decreasing the duplication of public services.

FINANCIAL IMPACT: To be paid out of the GIS Fund during the 2009 budget year.

BUDGET ACTION REQUIRED: To ensure funds are included in the 2009 budget.

STAFF RECOMMENDATION: To approve the resolution and to authorize both the Mayor and the Clerk to sign said resolution and agreement.

C. Appointment of Representative and Alternate Representative to Muskegon Central Dispatch Board of Directors. CITY MANAGER

SUMMARY OF REQUEST: To appoint the City Manager as representative for the City of Muskegon to serve as a director on the Muskegon Central Dispatch Board of Directors and to appoint the Director of Public Safety as an alternate representative.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the request and authorize the City Clerk to provide a signed, written consent resolution to the Muskegon Central Dispatch Board of Directors.

F. Amendment to the Zoning Ordinance – Height Limit in R-1. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Section 404, #6 (Area and Bulk Requirements) of Article IV (R, One Family Residential Districts) to allow structures up to 3 stories or 45 feet in height in established Historic Districts.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends amendment of the Zoning Ordinance to allow structures up to 3 stories or 45 feet in height in established Historic Districts in the R, One Family Residential zoning district.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their July 10th meeting. The vote was unanimous with S. Warmington absent.

G. Downtown and Lakeshore Redevelopment Plan – Approval to Distribute to Neighboring Communities. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Planning Staff and our consultants at Williams & Works and O'Boyle Cowell Blalock & Associates have completed the Downtown and Lakeshore Redevelopment Plan.

The Michigan Planning Enabling Act requires that once the Plan is completed, the Planning Commission forward it on to the City Commission. The City

Commission then approves it for distribution to neighboring cities and townships, Muskegon County, etc., for the 63 day review period. No resolution is required with this request.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends that the distribution of the Downtown and Lakeshore Redevelopment Plan to neighboring entities be approved for the 63 day review and comment period.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their August 14th meeting. The vote was unanimous with S. Warmington absent. Two changes were suggested by Planning Commission.

H. Meter Reading Radio Equipment Purchase. PUBLIC WORKS

SUMMARY OF REQUEST: Approval to purchase 700 MXU Radio Transceiver units. Currently the City manually reads residential meters and is in the process of retrofitting outside meter (meter pit) installations to radio read. The above purchase will begin the process of retrofitting inside meter installations to radio read technology.

FINANCIAL IMPACT: Total cost \$77,000.

BUDGET ACTION REQUIRED: None, the 2008 Water Maintenance Budget includes funding for this purchase.

STAFF RECOMMENDATION: To approve the purchase from ETNA SUPPLY.

I. Adoption of the Michigan Small Harbors Coalition Resolution. PUBLIC WORKS

SUMMARY OF REQUEST: To approve the resolution in support of the Michigan Small Harbors Coalition (MSHC), and to appoint the director of Public Works, or his designee, to represent the City of Muskegon with matters concerning the MSHC.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: Approve the resolution and authorize the Mayor and Clerk to sign the resolution.

J. Liquor License Transfer Request for Baker College of Muskegon, 336 W. Clay. CITY CLERK

SUMMARY OF REQUEST: The Liquor Control Commission is seeking local recommendation on a request from Baker College of Muskegon to transfer ownership of the 2008 Class C Licensed Business with Entertainment Permit,

located in escrow at 40 E. Norton, Muskegon Heights from L & S Grille, Inc., and transfer location to 336 W. Clay and request a new Dance Permit and new Outdoor Service – 1 Area.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: All departments are recommending approval.

K. Request for Encroachment Agreement – Sidewalk Encroachment for 1965 Lakeshore Drive. ENGINEERING

SUMMARY OF REQUEST: William Gibner LLC RPH has submitted an encroachment agreement form requesting your permission for approval of the three inch encroachment that has been created by the installation of each of the four column bases (in fence design) in front of the Lakeside Landing Building.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the encroachment agreement with supplemental conditions and compliance with required insurance coverage.

L. Easement to Consumer Energy on Walton between Jefferson and Terrace. ENGINEERING

SUMMARY OF REQUEST: Authorize the City Manager to execute the easement agreement granting Consumer Energy the rights to enter the vacated section of Walton for the purpose as described in the aforementioned agreement.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Authorize the City Manager to sign the agreement.

N. Agreement for School Resource Officer – Muskegon Public Schools. PUBLIC SAFETY

SUMMARY OF REQUEST: Police Department staff is requesting that the Commission approve an agreement between the City and the Muskegon Public Schools. The agreement provides for the continuance of a full-time School Resource Officer who is assigned to Muskegon High School. Muskegon Public Schools has agreed to pay one-half of the annual salary of the police officer position for a nine-month period. This agreement covers the period September 2, 2008 through June 8, 2009.

FINANCIAL IMPACT: This agreement will produce revenue in the amount of \$15,813 for the period of the agreement.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the agreement.

Motion by Commissioner Carter, second by Vice Mayor Gawron to approve the Consent Agenda as read minus items D, E, and M.

ROLL VOTE: Ayes: Gawron, Shepherd, Spataro, Warmington, Wierengo, Wisneski, and Carter

Nays: None

MOTION PASSES

2008-75 ITEMS REMOVED FROM THE CONSENT AGENDA:

D. Rezoning Request for Property Located at 1934 E. Sherman Boulevard.
PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to rezone the front portion of the property located at 1934 E. Sherman Boulevard, from I-2, General Industrial District to B-4, General Business District.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends approval of the request.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their August 14th meeting. The vote was unanimous with S. Warmington absent.

Motion by Commissioner Wisneski, second by Commissioner Spataro to approve the rezoning request for property located at 1934 E. Sherman Boulevard.

ROLL VOTE: Ayes: Wisneski, Carter, Gawron, Shepherd, Spataro, Warmington, and Wierengo

Nays: None

MOTION PASSES

E. Rezoning Request for Properties Located at 639 and 623 W. Clay Avenue and 1236 Eighth Street. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to rezone the properties located at 639 and 623 W. Clay Avenue and 1236 Eighth Street, from I-1, Light Industrial District to B-3, Central Business District.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends approval of the request.

COMMITTEE RECOMMENDATION: The Planning Commission recommended

approval of the request at their July 10th meeting. The vote was unanimous with S. Warmington absent.

Motion by Commissioner Wisneski, second by Commissioner Carter to approve the rezoning request for properties located at 639 and 623 W. Clay Avenue and 1236 Eighth Street.

ROLL VOTE: Ayes: Warmington, Wierengo, Wisneski, Carter, Gawron, Shepherd, and Spataro

Nays: None

MOTION PASSES

M. Consideration of Bids for Musketawa Trail Connector Corridor.
ENGINEERING

SUMMARY OF REQUEST: Award Phase I of the Musketawa Trail Connector contract to Thompson Brothers, Inc. out of Muskegon, MI, since they were the lowest responsible bidder with a total bid price of \$140,321.22.

Furthermore, it is requested that the award be contingent upon securing funding from MDNR and permission from MDOT to relocate the fence along the west side of Industrial Blvd.

FINANCIAL IMPACT: The construction cost of \$140,321.22 plus engineering cost which is estimated at an additional 15%.

BUDGET ACTION REQUIRED: None, the bulk of the cost is expected through MDNR grant as well as Wege Foundation along with \$30,000 of City street funds.

STAFF RECOMMENDATION: Award the contract to Thompson Brothers, Inc.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the bid for Musketawa Trail Connector to Thompson Brothers, Inc. and authorize City staff to execute the grant documents.

ROLL VOTE: Ayes: Shepherd, Spataro, Warmington, Wierengo, Wisneski, Carter, and Gawron

Nays: None

MOTION PASSES

2008-76 UNFINISHED BUSINESS:

A. Amendment to the Zoning Ordinance for WM, Waterfront Marine Districts, Special Land Uses Permitted. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Section 1901 (Special Land Uses Permitted) of Article XIX (WM, Waterfront Marine Districts) to allow museums as an additional special land use.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: This item was tabled at the January 22, 2008, meeting and referred back to staff at the February 12, 2008, meeting. Staff would like to now clear this item from the docket. Staff still believes this amendment to be in the best interest of waterfront development; and therefore, recommends approval of the amendment of the Zoning Ordinance to allow museums as an additional special land use in the WM, Waterfront Marine zoning district.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their January 10th meeting. The vote was unanimous with T. Michalski and B. Smith absent.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the amendment to Section 1901 of Special Land Uses Permitted regarding the Waterfront Marine Districts to allow museums as a special land use.

ROLL VOTE: Ayes: Carter, Gawron, Shepherd, Spataro, Warmington, Wierengo, and Wisneski

Nays: None

MOTION PASSES

2008-77 NEW BUSINESS:

A. Special Assessment Relief for Vida Nova Property. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Doug Harjer, owner of Vida Nova, has requested assistance from the City of Muskegon. He currently has built four condominium units at Vida Nova. There is interest in the units; however, given the current real estate situation, actual sales have been difficult. The assessments levied on the property have constituted a majority of the taxes owed; and by providing temporary relief on the assessments, Mr. Harjer may be able to lower the price on the condominium units and stimulate sales.

FINANCIAL IMPACT: There will be a temporary suspension of the assessments owed to the City.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: It is recommended that the City Commission authorize deferment of the assessments on the two parcels of property in Vida Nova (160 Viridian Dr. and 190 Viridian Dr.), for a period of two years, without interest.

Motion by Vice Mayor Gawron, second by Commissioner Carter to authorize the deferment of the assessments on the two parcels of property in Vida Nova, 160

Viridian Drive and 190 Viridian Drive, for a period of two years without interest.

ROLL VOTE: Ayes: Wisneski, Carter, Gawron, Shepherd, Spataro, Warmington, and Wierengo

Nays: None

MOTION PASSES

B. Request to Revoke the Obsolete Property Rehabilitation Exemption Certificate at 790 Terrace. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Promised Land Associates, 420 Carmen Drive, Spring Lake, MI 49456, was issued an Obsolete Property Rehabilitation Exemption Certificate (resolution number 2005-54b issued June 14, 2005) for the property located at 790 Terrace Street. The timeline to complete the rehabilitation was one year, giving them until June 14, 2006, to do so. However, a number of unforeseen problems occurred during this time, making the applicant unable to complete the rehabilitation. The applicant then requested a time extension in November, 2007, and was granted additional time to complete the rehabilitation. The new deadline to finish the rehabilitation was August 22, 2008. Total capital investment for this project was stated to be \$1,200,000 and was to include the addition of an elevator and an additional stairway, along with upgrades to the structural, mechanical, and electrical systems to meet current code requirements. To date, none of these projects have been completed.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To revoke the Obsolete Property Rehabilitation Certificate.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to revoke the Obsolete Property Rehabilitation Certificate for 790 Terrace.

Motion by Commissioner Shepherd, second by Commissioner Carter to Table the request to revoke the Obsolete Property Exemption Certificate at 790 Terrace until the first or second meeting in January of 2009 with the applicant to provide financial documents to City staff by December 1, 2008.

ROLL VOTE: Ayes: Warmington, Wierengo, Wisneski, Carter, Gawron, Shepherd, and Spataro

Nays: None

MOTION TO TABLE PASSES

C. Designation of Voting Delegates for the Michigan Municipal League Annual Business Meeting. CITY CLERK

SUMMARY OF REQUEST: To designate by action of the Commission, one of our

officials who will be in attendance at the Convention as an official representative to cast the vote of the municipality at the annual meeting; and, if possible, to designate one other official to serve as alternate.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval.

Motion by Commissioner Spataro, second by Commissioner Wisneski to designate Commissioner Shepherd as the voting delegate at the Michigan Municipal League Annual Business Meeting and Ann Marie Becker as the alternate.

ROLL VOTE: Ayes: Spataro, Warmington, Wierengo, Wisneski, Gawron, and Shepherd

Nays: None

Absent: Carter (stepped out of the room)

MOTION PASSES

Commissioner Shepherd was excused from the meeting at 6:48 p.m.

D. Concurrence with the Housing Board of Appeals Notice and Order to Demolish the Following: PUBLIC SAFETY

254 Amity Avenue, Area II

1259 Sanford Street, Area 10

1329 Fourth Street (Garage), Area 10

1573 Beidler Street, Area 12

SUMMARY OF REQUEST: This is to request that the City Commission concur with the findings of the Housing Board of Appeals that the structures are unsafe, substandard, a public nuisance and that they be demolished within 30 days. It is further requested that administration be directed to obtain bids for the demolition of the structures and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder.

FINANCIAL IMPACT: CDBG Funds for 1259 Sanford, 1329 Fourth (garage), and 254 Amity. General Funds for 1573 Beidler.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To concur with the Housing Board of Appeals decision to demolish.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to concur with the Housing Board of Appeals notice and order to demolish 1259 Sanford Street

and 1573 Beidler Street.

ROLL VOTE: Ayes: Spataro, Warmington, Wierengo, Wisneski, Carter, and Gawron

Nays: None

MOTION PASSES

Motion by Commissioner Spataro, second by Vice Mayor Gawron to concur with the Housing Board of Appeals notice and order to demolish 1329 Fourth Street garage only.

ROLL VOTE: Ayes: Gawron, Spataro, Warmington, Wierengo, Wisneski, and Carter

Nays: None

MOTION PASSES

Motion by Commissioner Spataro, second by Vice Mayor Gawron to concur with the Housing Board of Appeals notice and order to demolish 254 Amity Avenue.

Motion by Commissioner Spataro, second by Commissioner Carter to Table the demolition of 254 Amity Avenue to the second meeting in October.

ROLL VOTE: Ayes: Wisneski, Carter, Gawron, Spataro, Warmington, and Wierengo

Nays: None

MOTION TO TABLE PASSES

ADJOURNMENT: The City Commission Meeting adjourned at 7:08 p.m.

Respectfully submitted,

Ann Marie Becker, MMC
City Clerk